

OFFICE OF THE GENERAL COUNSEL  
Nevada State Board of Medical Examiners  
1105 Terminal Way #301  
Reno, Nevada 89502  
(775) 688-2559

1                                   **BEFORE THE BOARD OF MEDICAL EXAMINERS**  
2                                   **OF THE STATE OF NEVADA**

3                                   \* \* \* \* \*

4  
5 **In the Matter of Charges and**  
6 **Complaint Against**  
7 **Robert G. Rand, M.D.,**  
8 **Respondent.**

Case No. 17-25704-1

**FILED**

**JAN 10 2018**

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS  
By: 

9  
10                                   **FIRST AMENDED COMPLAINT**

11                   The Investigative Committee<sup>1</sup> (IC) of the Nevada State Board of Medical Examiners  
12 (Board) hereby issues this First Amended Complaint (Complaint) against Robert G. Rand, M.D.  
13 (Respondent). After investigating this matter, the IC has a reasonable basis to believe that  
14 Respondent has violated provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada  
15 Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act). The IC alleges  
16 the following facts:

17                   1. Respondent was licensed by the Board, pursuant to the provisions of the Medical  
18 Practice Act, on July 1, 2005. His license (License No. 11470) expired June 30, 2017. Pursuant  
19 to NRS 630.298, the expiration of a license by operation of law does not deprive the Board of  
20 jurisdiction to proceed with any disciplinary proceeding against the licensee. At all relevant times  
21 alleged herein, Respondent was licensed in an active status by the Board pursuant to the  
22 provisions of the Medical Practice Act.

23                   2. Pursuant to NRS 630.301(1), conviction of a felony relating to the practice of  
24 medicine or the ability to practice medicine is grounds for initiating disciplinary action or denying  
25 licensure.

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28 <sup>1</sup> The Investigative Committee of the Nevada State Board of Medical Examiners, at the time the filing of this First Amended Complaint was approved, was composed of Rachakonda D. Prabhu, M.D., Ms. Sandy Peltyn, and Victor M. Muro, M.D.

1 3. Pursuant to NRS 630.301(11)(f), conviction of a violation of any federal law  
2 regulating the distribution of any controlled substance is grounds for initiating disciplinary action  
3 or denying licensure.

4 4. Pursuant to NAC 453.520(2)(a), Oxycodone is a Schedule II controlled substance.

5 5. Pursuant to the Judgment in a Criminal Case issued on November 21, 2017, by the  
6 United States District Court, District of Nevada, in Case No. 3:16-cr-00029-MMD-WGC  
7 (Judgment of Conviction) (Exhibit A), Respondent was convicted of one (1) count in violation of  
8 18 U.S.C. § 1112(a), Involuntary Manslaughter, a felony pursuant to 18 U.S.C. § 3156(a)(3), and  
9 one (1) count in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 21 C.F.R. § 1306.04,  
10 Distribution of a Controlled Substance (Oxycodone), a felony pursuant to 18 U.S.C. § 3156(a)(3),  
11 whereby Respondent was adjudged to have prescribed, while licensed by the Board, an excessive  
12 amount of Oxycodone to his medical patient without a legitimate medical purpose and not in the  
13 usual course of professional practice that resulted in the patient’s death from Oxycodone  
14 intoxication.

15 6. Pursuant to 21 C.F.R. § 1306.04, a prescription for a controlled substance to be  
16 effective must be issued for a legitimate medical purpose by an individual practitioner acting in  
17 the usual course of his professional practice.

18 7. For these felony convictions, Respondent was sentenced to 120 months of  
19 imprisonment in the custody of the Federal Bureau of Prisons.

20 **Count I**

21 **NRS 630.301(1): Conviction of a Felony Relating to the Practice of Medicine**

22 8. All of the allegations in the above paragraphs are hereby incorporated as if fully set  
23 forth herein.

24 9. Pursuant to NRS 630.301(1), conviction of a felony relating to the practice of  
25 medicine or the ability to practice medicine is grounds for initiating disciplinary action or denying  
26 licensure.

27 10. Respondent was convicted of one (1) count in violation of 18 U.S.C. § 1112(a),  
28 Involuntary Manslaughter, a felony pursuant to 18 U.S.C. § 3156(a)(3).

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11. This felony conviction relates to the practice of medicine by Respondent.

12. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

**Count II**

**NRS 630.301(1): Conviction of a Felony Relating to the Practice of Medicine**

13. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

14. Pursuant to NRS 630.301(1), conviction of a felony relating to the practice of medicine or the ability to practice medicine is grounds for initiating disciplinary action or denying licensure.

15. Respondent was convicted of one (1) count in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 21 C.F.R. § 1306.04, Distribution of a Controlled Substance (Oxycodone), a felony pursuant to 18 U.S.C. § 3156(a)(3).

16. This felony conviction relates to the practice of medicine by Respondent.

17. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

**Count III**

**NRS 630.301(11)(f): Conviction of a Violation of Federal Law Regulating the Distribution of a Controlled Substance**

18. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

19. Pursuant to NRS 630.301(11)(f), conviction of a violation of any federal law regulating the distribution of any controlled substance is grounds for initiating disciplinary action or denying licensure.

20. Respondent was convicted of one (1) count in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 21 C.F.R. § 1306.04, Distribution of a Controlled Substance (Oxycodone).

21. 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 21 C.F.R. § 1306.04 are federal laws regulating the distribution of controlled substances.

1 22. By reason of the foregoing, Respondent is subject to discipline by the Nevada State  
2 Board of Medical Examiners as provided in NRS 630.352.

3 **WHEREFORE**, the Investigative Committee prays:

4 1. That the Nevada State Board of Medical Examiners give Respondent notice of the  
5 charges herein against him and give him notice that he may file an answer to the First Amended  
6 Complaint herein as set forth in NRS 630.339 (2) within twenty (20) days of service of the First  
7 Amended Complaint;

8 2. That the Nevada State Board of Medical Examiners set a time and place for a  
9 formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);

10 3. That the Nevada State Board of Medical Examiners determine the sanctions it will  
11 impose if it finds Respondent violated the Medical Practice Act;

12 4. That the Nevada State Board of Medical Examiners make, issue and serve upon the  
13 Respondent, in writing, its Findings of Fact, Conclusions of Law and Order, in writing which shall  
14 include the sanctions imposed; and

15 5. That the Nevada State Board of Medical Examiners take such other and further  
16 action as may be just and proper in these premises.

17 DATED this 10 day of January, 2018.

18 INVESTIGATIVE COMMITTEE OF THE  
19 NEVADA STATE BOARD OF MEDICAL EXAMINERS

20  
21 By: RGK

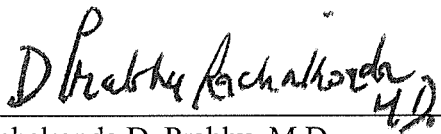
22 Robert Kilroy, Esq., General Counsel  
23 Aaron Bart Fricke, Esq., Deputy General Counsel  
24 Donald K. White, Esq., Deputy General Counsel  
25 Attorneys for the Investigative Committee  
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VERIFICATION

1 STATE OF NEVADA )  
2 : ss.  
3 COUNTY OF CLARK )

4 Rachakonda D. Prabhu, M.D., hereby deposes and states under penalty of perjury under  
5 the laws of the state of Nevada that he is the Chairman of the Investigative Committee of the  
6 Nevada State Board of Medical Examiners that authorized the foregoing Complaint against the  
7 Respondent herein; that he has read the foregoing First Amended Complaint; and based upon  
8 information discovered during the course of the investigation into a First Amended Complaint  
9 against Respondent, he believes the allegations and charges in the foregoing First Amended  
10 Complaint against Respondent are true, accurate and correct.

11 Dated this 10th day of January, 2018.

12   
13 \_\_\_\_\_  
14 Rachakonda D. Prabhu, M.D.

**EXHIBIT A**

**EXHIBIT A**

**UNITED STATES DISTRICT COURT**  
District of Nevada

UNITED STATES OF AMERICA )

**JUDGMENT IN A CRIMINAL CASE**

v. )

ROBERT GENE RAND )

Case Number: 3:16-CR-29-MMD-WGC

USM Number: 23467-111

John Ohlson and Jack Fox  
Defendant's Attorneys

**THE DEFENDANT:**

pleaded guilty to counts 1 and 2 of the superseding information .

pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC §1112(a)	Involuntary Manslaughter	9/30/2015	1
21 USC §§841(a)(1), 841(b)(1) (C) and 21 CFR §1306.04	Distribution of a Controlled Substance (Oxycodone)	4/30/2016	2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) \_\_\_\_\_

Count(s) Indictment and Superseding indictment \_\_\_\_\_  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

11/20/2017

Date of Imposition of Judgment

Signature of Judge

MIRANDA M. DU, U.S. DISTRICT JUDGE

Name and Title of Judge

November 21, 2017

Date

DEFENDANT: ROBERT GENE RAND  
CASE NUMBER: 3:16-CR-29-MMD-WGC

**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 120 months (96 months as to Count 1; 120 months as to Count 2; to be served concurrently.)

The court makes the following recommendations to the Bureau of Prisons:  
FCI Herlong, CA.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on \_\_\_\_\_.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
a \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

\_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL



DEFENDANT: ROBERT GENE RAND  
CASE NUMBER: 3:16-CR-29-MMD-WGC

### SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: 3 years as to each count, to be served concurrently

### MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court, not to exceed 104 tests annually.  
 The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4.  You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5.  You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6.  You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, or are a student, or were convicted of a qualifying offense. *(check if applicable)*
7.  You must participate in an approved program for domestic violence. *(check if applicable)*
8. You must pay the assessment imposed in accordance with 18 U.S.C. § 3013.
9. If this judgment imposes a fine, you must pay in accordance with the Schedule of Payments sheet of this judgment.
10. You must notify the court of any material change in your economic circumstances that might affect your ability to pay restitution, fines, or special assessments.

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: ROBERT GENE RAND  
CASE NUMBER: 3:16-CR-29-MMD-WGC

### STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchukus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

### U.S. Probation Office User Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: ROBERT GENE RAND  
CASE NUMBER: 3:16-CR-29-MMD-WGC

**SPECIAL CONDITIONS OF SUPERVISION**

1. You must provide the probation officer access to any requested financial information and authorize the release of any financial information. The probation office will share financial information with the U.S. Attorney's Office.
2. If the judgment imposes a financial penalty, you must pay the financial penalty in accordance with the Schedule of Payments sheet of this judgment. You must also notify the court of any changes in economic circumstances that might affect the ability to pay this financial penalty.
3. You must not engage in an occupation, business, or profession, or volunteer activity that would require or enable you to work in the medical profession without the prior approval of the probation officer. You are further prohibited from working or engaging in any business or activities involving the prescribing of medication.
4. You must complete 200 hours of community service within 12 months. The probation officer will supervise the participation in the program by approving the program (agency, location, frequency of participation, etc.). You must provide written verification of completed hours to the probation officer.
5. You must submit your person, property, house, residence papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.

The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

6. You must not communicate, or otherwise interact, with the victim's immediate family or any codefendant, either directly or through someone else, without first obtaining the permission of the probation office.

DEFENDANT: ROBERT GENE RAND  
 CASE NUMBER: 3:16-CR-29-MMD-WGC

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 200.00	\$	\$25,000.00	\$11,960.00

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
The Yenick family		11,960.00	

**TOTALS** \$ \_\_\_\_\_ \$ 11,960.00

Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the  fine  restitution.

the interest requirement for the  fine  restitution is modified as follows:

\* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ROBERT GENE RAND  
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**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A  Lump sum payment of \$ 37,160.00 due immediately, balance due
  - not later than \_\_\_\_\_, or
  - in accordance with  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:  
Any unpaid balance must be paid at a monthly rate of not less than 10% of any income earned during incarcerations and/or gross income while on supervision, subject to adjustment by the Court based upon ability to pay.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several
 

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVT A assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.